

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CRAIG VAN ARSDEL

Plaintiff,

v.

LIBERTY MUTUAL INSURANCE
COMPANY,

Defendant.

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CIVIL ACTION NO. 14-2579

ORDER

AND NOW, this 5th day of September, 2014, after considering the motion of the defendant, Liberty Mutual Insurance Company, to dismiss counts I & II of the amended complaint (Doc. No. 5), and the reply to the motion to dismiss filed by the plaintiff, Craig Van Arsdel (Doc. No. 6); and after reviewing the amended complaint and the exhibit attached thereto (Doc. No. 3), it is hereby **ORDERED** as follows:

1. The motion to dismiss (Doc. No. 5) is **DENIED** without prejudice to being reasserted in a motion for summary judgment;
2. The defendant shall have a period of fourteen (14) days to file an answer to the amended complaint;
3. The parties shall have a period of sixty (60) days from the date of this order to conduct discovery whether ERISA preempts the state law claims asserted by the plaintiff in this case or whether the Safe Harbor provision, 29 C.F.R. § 2510.3-1(j), applies to the policy at issue;

4. At the conclusion of the aforementioned discovery period, the parties may file motions for summary judgment addressing the applicability of the Safe Harbor provision. The parties shall file any such motions no later than November 14, 2014; and

5. Each party may file a brief in opposition to a motion for summary judgment no later than November 28, 2014.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.